

REED SMITH LLP

A limited liability partnership formed in the State of Delaware

Abraham J. Colman (SBN 146933)  
Email: acolman@reedsmith.com  
David S. Reidy (SBN 225904)  
Email: dreidy@reedsmith.com  
James E. Heffner (SBN 245406)  
Email: jeheffner@reedsmith.com  
REED SMITH LLP  
Two Embarcadero Center, Suite 2000  
San Francisco, CA 94111-3922

**Mailing Address:**  
P.O. Box 7936  
San Francisco, CA 94120-7936

Telephone: +1 415 543 8700  
Facsimile: +1 415 391 8269

Attorneys for Defendant  
DFS Services LLC (sued erroneously as  
Discover Financial Services)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ROBERT MICHAEL WILLIAMS,  
Plaintiff,

vs.

TRANS UNION, LLC, EXPERIAN  
INFORMATION SOLUTIONS, INC., EQUIFAX  
INFORMATION SERVICES, LLC,  
AMERICAN EXPRESS TRAVEL RELATED  
SERVICES, INC.; DISCOVER FINANCIAL  
SERVICES; PINNACLE CREDIT SERVICES,  
INC.; ASSET ACCEPTANCE, LLC; and  
NATIONAL CREDIT ADJUSTERS, LLC,  
Defendants.

Case No. CV 07 5956 CRB

**ANSWER OF DEFENDANT DFS  
SERVICES LLC TO PLAINTIFF'S  
COMPLAINT**

Compl. Filed: November 26, 2007  
Trial Date: None

**ANSWER**

Defendant DFS Services LLC, sued erroneously as Discover Financial Services,  
("Discover") hereby answers the allegations of the Complaint filed in this action by plaintiff Robert

1 Michael Williams ("Plaintiff"). Unless expressly admitted herein, Discover lacks sufficient  
2 information to admit or deny the allegations and on that basis denies the allegations.

### 3 **Jurisdiction and Venue**

4 1. Answering Paragraph 1 of the Complaint, Discover admits that this Court has  
5 jurisdiction as Plaintiff purports to assert claims under the Fair Credit Reporting Act ("FCRA"), 15  
6 U.S.C. §§1681 *et seq.* Discover denies any liability to Plaintiff under the FCRA or other state law  
7 claims asserting in this Action. Except as expressly admitted herein, Discover lacks sufficient  
8 information to admit or deny the allegations stated in Paragraph 1 and, on that basis, denies the  
9 allegations.

### 10 **Description of the Case**

11 2. Answering Paragraph 2 of the Complaint, Discover lacks sufficient information to  
12 admit or deny the allegations stated therein and, on that basis, denies the allegations.

13 3. Answering Paragraph 3 of the Complaint, Discover denies the allegations contained  
14 therein.

15 4. Answering Paragraph 4 of the Complaint, Discover lacks sufficient information to  
16 admit or deny the allegations stated therein and, on that basis, denies the allegations.

17 5. Answering Paragraph 5 of the Complaint, Discover lacks sufficient information to  
18 admit or deny the allegations stated therein and, on that basis, denies the allegations.

### 19 **The Parties**

20 6. Answering Paragraph 6 of the Complaint, Discover lacks sufficient information to  
21 admit or deny the allegations stated therein and, on that basis, denies the allegations.

22 7. Answering Paragraph 7 of the Complaint, Discover lacks sufficient information to  
23 admit or deny the allegations stated therein and, on that basis, denies the allegations.

24 8. Answering Paragraph 8 of the Complaint, Discover lacks sufficient information to  
25 admit or deny the allegations stated therein and, on that basis, denies the allegations.

26 9. Answering Paragraph 9 of the Complaint, Discover lacks sufficient information to  
27 admit or deny the allegations stated therein and, on that basis, denies the allegations.  
28



1           10.     Answering Paragraph 10 of the Complaint, Discover lacks sufficient information to  
2 admit or deny the allegations stated therein and, on that basis, denies the allegations.

3           11.     Answering Paragraph 11 of the Complaint, Discover lacks sufficient information to  
4 admit or deny the allegations stated therein and, on that basis, denies the allegations.

5           12.     Answering Paragraph 12 of the Complaint, Discover admits that it is a furnisher of  
6 information to credit reporting agencies. Except as expressly admitted herein, Discover denies the  
7 allegations of Paragraph 12.

8           13.     Answering Paragraph 13 of the Complaint, Discover lacks sufficient information to  
9 admit or deny the allegations stated therein and, on that basis, denies the allegations.

10          14.     Answering Paragraph 14 of the Complaint, Discover lacks sufficient information to  
11 admit or deny the allegations stated therein and, on that basis, denies the allegations.

12          15.     Answering Paragraph 15 of the Complaint, Discover lacks sufficient information to  
13 admit or deny the allegations stated therein and, on that basis, denies the allegations.

14                   **First Claim: The CRA Defendants' Violation of 15 USC § 1681i**

15          16.     Answering Paragraph 16 of the Complaint, Discover incorporates by reference its  
16 answers to Paragraphs 1 through 15, above, as though the same were set forth herein.

17          17.     Answering Paragraph 17 of the Complaint, Discover admits that the FCRA speaks for  
18 itself.

19          18.     Answering Paragraph 18 of the Complaint, Discover lacks sufficient information to  
20 admit or deny the allegations stated therein and, on that basis, denies the allegations.

21          19.     Answering Paragraph 19 of the Complaint, Discover lacks sufficient information to  
22 admit or deny the allegations stated therein and, on that basis, denies the allegations.

23          20.     Answering Paragraph 20 of the Complaint, Discover lacks sufficient information to  
24 admit or deny the allegations stated therein and, on that basis, denies the allegations.

25          21.     Answering Paragraph 21 of the Complaint, Discover lacks sufficient information to  
26 admit or deny the allegations stated therein and, on that basis, denies the allegations.

27          22.     Answering Paragraph 22 of the Complaint, Discover lacks sufficient information to  
28 admit or deny the allegations stated therein and, on that basis, denies the allegations.

23. Answering Paragraph 23 of the Complaint, Discover lacks sufficient information to admit or deny the allegations stated therein and, on that basis, denies the allegations.

24. Answering Paragraph 24 of the Complaint, Discover lacks sufficient information to admit or deny the allegations stated therein and, on that basis, denies the allegations.

25. Answering Paragraph 25 of the Complaint, Discover lacks sufficient information to admit or deny the allegations stated therein and, on that basis, denies the allegations.

**Second Claim: Violations of AMEX, Discover, Asset Acceptance,  
Pinnacle & National Credit of 15 USC § 1681s-2(b)**

26. Answering Paragraph 26 of the Complaint, Discover incorporates by reference its answers to Paragraphs 1 through 15, above, as though the same were set forth herein.

27. Answering Paragraph 27 of the Complaint, Discover admits that the FCRA speaks for itself.

28. Answering Paragraph 28 of the Complaint, Discover denies the allegations contained therein.

29. Answering Paragraph 29 of the Complaint, Discover denies that it reported inaccurate information to the CRAs concerning Plaintiff. As to the remaining allegations of Paragraph 29, Discover lacks sufficient information to admit or deny the allegations stated therein and, on that basis, denies the allegations.

30. Answering Paragraph 30 of the Complaint, Discover lacks sufficient information to admit or deny the allegations stated therein and, on that basis, denies the allegations.

31. Answering Paragraph 31 of the Complaint, Discover lacks sufficient information to admit or deny the allegations stated therein and, on that basis, denies the allegations.

32. Answering Paragraph 32 of the Complaint, Discover denies the allegations contained therein.

33. Answering Paragraph 33 of the Complaint, Discover denies the allegations contained therein.

34. Answering Paragraph 34 of the Complaint, Discover denies the allegations contained therein.



1           35.     Answering Paragraph 35 of the Complaint, Discover denies the allegations contained  
2 therein.

3                           **Third Claim: Violations of Asset Acceptance,**  
4                           **Pinnacle & National Credit of 15 USC § 1682 *et seq.***

5           36.     Answering Paragraph 36 of the Complaint, Discover incorporates by reference its  
6 answers to Paragraphs 1 through 15, above, as though the same were set forth herein.

7           37.     Answering Paragraph 37 of the Complaint, Discover lacks sufficient information to  
8 admit or deny the allegations stated therein and, on that basis, denies the allegations.

9           38.     Answering Paragraph 38 of the Complaint, Discover lacks sufficient information to  
10 admit or deny the allegations stated therein and, on that basis, denies the allegations.

11           39.     Answering Paragraph 39 of the Complaint, Discover lacks sufficient information to  
12 admit or deny the allegations stated therein and, on that basis, denies the allegations.

13           40.     Answering Paragraph 40 of the Complaint, Discover lacks sufficient information to  
14 admit or deny the allegations stated therein and, on that basis, denies the allegations.

15           41.     Answering Paragraph 41 of the Complaint, Discover lacks sufficient information to  
16 admit or deny the allegations stated therein and, on that basis, denies the allegations.

17           42.     Answering Paragraph 42 of the Complaint, Discover lacks sufficient information to  
18 admit or deny the allegations stated therein and, on that basis, denies the allegations.

19                           **Fourth Claim: Asset Acceptance, Violation of California's Identity**  
20                           **Theft Statute, California Civil Code §§ 1798.92 *et seq.***

21           43.     Answering Paragraph 43 of the Complaint, Discover lacks sufficient information to  
22 admit or deny the allegations stated therein and, on that basis, denies the allegations.

23           44.     Answering Paragraph 44 of the Complaint, Discover lacks sufficient information to  
24 admit or deny the allegations stated therein and, on that basis, denies the allegations.

25           45.     Answering Paragraph 45 of the Complaint, Discover lacks sufficient information to  
26 admit or deny the allegations stated therein and, on that basis, denies the allegations.

27           46.     Answering Paragraph 46 of the Complaint, Discover lacks sufficient information to  
28 admit or deny the allegations stated therein and, on that basis, denies the allegations.

1           47.     Answering Paragraph 47 of the Complaint, Discover lacks sufficient information to  
2 admit or deny the allegations stated therein and, on that basis, denies the allegations.

3           48.     Answering Paragraph 48 of the Complaint, Discover lacks sufficient information to  
4 admit or deny the allegations stated therein and, on that basis, denies the allegations.

5  
6                           **AFFIRMATIVE DEFENSES**

7                           **FIRST AFFIRMATIVE DEFENSE**

8                           **(Failure to State a Claim)**

9           1.     Plaintiff fails to allege sufficient facts to state any claim against Discover for which  
10 relief can be granted.

11                           **SECOND AFFIRMATIVE DEFENSE**

12                           **(Statute of Limitations)**

13           2.     Plaintiff's claims against Discover are barred by all applicable statute of limitations.

14                           **THIRD AFFIRMATIVE DEFENSE**

15                           **(Laches)**

16           3.     Plaintiff's claims against Discover are barred by the doctrine of laches.

17                           **FOURTH AFFIRMATIVE DEFENSE**

18                           **(Waiver)**

19           4.     Plaintiff waived any and all claims, rights and demands made by him in the  
20 Complaint herein.

21                           **FIFTH AFFIRMATIVE DEFENSE**

22                           **(Estoppel)**

23           5.     Plaintiff is estopped from asserting the claims, rights and demands made by him in  
24 the Complaint herein.

25                           **SIXTH AFFIRMATIVE DEFENSE**

26                           **(Fault of Others)**

27           6.     If Plaintiff suffered or sustained any loss, injury, damage or detriment, the same was  
28 directly and proximately caused and contributed to by the breach, conduct, acts, omissions,

activities, carelessness, recklessness, negligence, and/or intentional misconduct of third parties, and not by Discover.

### SEVENTH AFFIRMATIVE DEFENSE

#### (Unclean Hands)

7. Plaintiff is barred from recovering against Discover by virtue of his unlawful, immoral, careless, negligent and/or other wrongful conduct.

### EIGHTH AFFIRMATIVE DEFENSE

#### (No Damages)

8. Discover has committed no act or omission causing damage to Plaintiff.

### NINTH AFFIRMATIVE DEFENSE

#### (Speculative Damages)

9. The damages claimed by Plaintiff in the Complaint are speculative.

### TENTH AFFIRMATIVE DEFENSE

#### (Lack of Malice or Willfulness)

10. Although Discover specifically denies it has any liability with respect to Plaintiff's claims and allegations, Discover asserts that it has not willfully or maliciously published any false information with respect to Plaintiff's credit file.

### ELEVENTH AFFIRMATIVE DEFENSE

#### (Privilege and Qualified Privilege)

11. Discover pleads privilege and qualified privilege as affirmative defenses. By statute and by common law, Discover was privileged and justified in acting as it did and in making the reports, statements and/or representations that it made. Accordingly, Discover cannot be liable for Plaintiff's damages, if any.

### TWELFTH AFFIRMATIVE DEFENSE

#### (Plaintiff's Failure to Provide Notice)

12. Plaintiff has failed to give Discover the notice required in connection with the purported causes of action raised in the Complaint.

///



**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Statutory Compliance)**

13. Plaintiff's claims, if any, are barred because Discover's actions as alleged herein were authorized by statute and, based upon Discover's compliance with the statute, such actions, if any, were lawful and cannot form the basis for liability to Plaintiff.

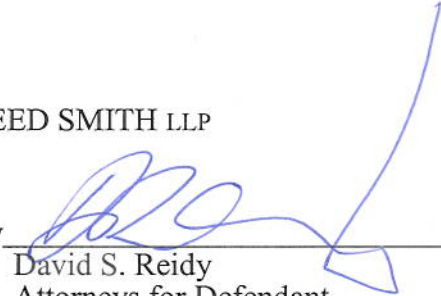
**WHEREFORE**, Discover prays for judgment as follows:

1. That Plaintiff take nothing by reason of his Complaint;
2. For its costs of suit herein;
3. For attorneys' fees according to proof, and
4. For such other and further relief as this Court may deem just and proper

DATED: January 18, 2008

REED SMITH LLP

By

  
David S. Reidy  
Attorneys for Defendant  
DFS Services LLC (sued erroneously as  
Discover Financial Services)

REED SMITH LLP

A limited liability partnership formed in the State of Delaware